



The Planning Inspectorate

Report to North Somerset Council

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION OF SITES AND POLICIES PLAN PART 1:
DEVELOPMENT MANAGEMENT POLICIES**

Document submitted for examination on 22 July 2015

Examination hearing held on 3 and 4 November 2015

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Abbreviations Used in this Report

AONB	Area of Outstanding Natural Beauty
DMP	Sites and Policies Plan Part 1: Development Management Policies
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
MM	Main Modification
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Sites and Policies Plan Part 1: Development Management Policies provides an appropriate basis for the planning of the District, providing a number of main modifications are made to it. North Somerset Council has specifically requested me to recommend any main modifications necessary to enable the plan to be adopted. All of the modifications were proposed by the Council but where necessary the detailed wording has been amended and added to. I have recommended their inclusion after considering the representations from other parties.

The Main Modifications can be summarised as changes to policies so that they are justified, effective and consistent with national policy. In particular:

- Updating of policies to accord with Written Ministerial Statements regarding wind energy and technical standards for new housing;
- Removing the table setting compensation tree standards;
- Clarifying the landscape impact tests for development within the Area of Outstanding Natural Beauty and outside it;
- Ensuring Green Belt provisions accord with the National Planning Policy Framework;
- Adjusting the requirements for new development in relation to bus accessibility;
- Amending the policy for the conversion or re-use of rural buildings to residential to align with current national policy;
- Revising the policy on broadband connection so that it is not unduly restrictive;
- Confirming that there is no need for a separate business case to be made for either visitor accommodation in the countryside or camping and caravanning sites;
- Deleting the specific restrictions on the operation of garden centres;
- Reducing the extent of the primary frontage in Weston-super-Mare and altering the policy that seeks to protect such designated areas generally; and
- Omitting the local threshold for undertaking an impact assessment for retail development.

Introduction

1. This report contains my assessment of the Sites and Policies Plan Part 1: Development Management Policies (DMP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (NPPF) (paragraph 182) makes clear that to be sound a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the Publication Version of February 2015.
3. In accordance with section 20(7C) of the 2004 Act the Council has requested that I should recommend any modifications needed to ensure that the DMP satisfies the requirements of the Act and is sound. The report explains why Main Modifications are necessary and they are identified in bold (**MM**). The Appendix contains the Main Modifications in full and all relate to matters that were discussed at the examination hearing.
4. Following this, the Council prepared a schedule of proposed main modifications which was subject to public consultation between 14 January and 2 March 2016. I have taken account of the consultation responses received in coming to my conclusions in this report and I have made some amendments to the detailed wording of the proposed main modifications as a result. Furthermore, I have recommended other changes where these are necessary for consistency or clarity. None of these alterations significantly alters the content of the proposed main modifications published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.
5. The Policies Map is not defined in statute as a development plan document and therefore I do not recommend the extracts put forward by the Council as main modifications. However, in order to comply with the legislation and give effect to the DMP's policies, it will be necessary to update it to include all the relevant changes and to replace all references to the Proposals Map in the DMP with the term Policies Map.

Duty to Co-operate

6. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in relation to the Plan's preparation.
7. The Council has a long history of joint working with other local authorities in the West of England as explained in the Consultation Statement¹. The DMP is not concerned with key strategic matters relating to sustainable development but rather its policies are predominantly locally specific to North Somerset.

¹ SD/09

There are nevertheless some cross-boundary issues that affect policies in the Plan including management of the Mendip Hills Area of Outstanding Natural Beauty (AONB), mineral workings and transport schemes. In these respects liaison has taken place.

8. No adverse comments have been made by any organisations and no objections have been made on the basis of a failure to co-operate during the preparation of the DMP. Overall I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis and that this duty has therefore been met.

Assessment of Soundness

Main Issues

9. Taking account of all the representations, written evidence and the discussions that took place at the examination hearing I have identified two main issues upon which the soundness of the Plan depends. The report will deal with the main matters relating to soundness under these headings rather than respond to every point raised by representors.

Issue 1 – Is the plan consistent with, and does it positively promote, the visions, objectives and spatial policies contained in the Core Strategy; is its relationship with the Core Strategy sound and is its overall approach consistent with national policy?

10. The Council's Core Strategy was adopted in April 2012. However, following a successful legal challenge in March 2013, Policy CS13 (Scale of New Housing) was found to be unlawful and 8 other connected policies were remitted to The Planning Inspectorate for re-determination. Following an intervention, the Secretary of State confirmed in September 2015 that a housing target of 20,985 over the plan period is appropriate and, on that basis, Policy CS13 is now part of the development plan. The revisions to the other remitted policies have been the subject of a consultation exercise and a re-examination of these is under way. The Council expects them to be adopted in September 2016.
11. The uncertainty regarding the Core Strategy has led the Council to split the Sites and Policies Plan into two parts with site allocations awaiting the completion of the re-examination. However, the generic policies in the DMP are not affected by this on-going process. I am therefore satisfied that adopting its policies would not pre-empt the strategic or site allocation policies. The DMP nonetheless seeks to complement the Core Strategy and to bring forward development management policies that align with the NPPF. It would largely supersede the Replacement Local Plan of 2007.
12. The Core Strategy contains 7 visions for the plan period until 2026 both for the whole District and for its constituent parts. Overall they seek to make North Somerset more prosperous with reduced inequalities and new development influenced by its coastal and rural setting and rich heritage. Weston-super-Mare will be established as a major economic centre. These visions are translated into 10 primary objectives. The DMP contains policies which reflect the 4 sections of the Core Strategy and which provide more detail for the management of development under the relevant topic areas. Each policy

contains references to relevant spatial policies so that the two documents 'mesh' in a coherent way. Therefore the DMP is consistent with and positively promotes the Core Strategy's visions, objectives and spatial policies.

13. Policy CS20 (Supporting a Successful Economy) of the Core Strategy sets out the Council's expectations for additional employment opportunities. It is not based on an objective assessment of economic needs as referred to in the NPPF and the Planning Practice Guidance (PPG) on *Local Plans* and *Housing and Economic Needs Assessments*. Paragraph 160 of the NPPF indicates that local planning authorities should have a clear understanding of business needs within the economic markets operating in and across their area. However, when applying the NPPF it is reasonable to distinguish between the different types of plan. The DMP is intended to complement the Core Strategy rather than to supplant it and does not seek to re-visit matters that have already been settled including the role and extent of Royal Portbury Dock. In this way its relationship with the Core Strategy is sound. Furthermore, although there is no longer a hierarchy of plans, Regulation 8(4) requires that local plans are "consistent" with the adopted development plan.
14. The NPPF also refers to the production of a Local Plan for each local planning authority area. However, the Council's approach to development plan preparation pre-dated this policy and having started on that road it should be allowed to complete the journey. The evidence base for the Core Strategy goes back beyond its adoption date and Government guidance has also changed. Nevertheless, there is nothing in legislation to indicate that the DMP cannot be adopted even if the Core Strategy may need to be updated. This would also cause delay to the adoption of a raft of other day-to-day policies. Therefore there is no need for a subsequent plan of this type to be based on an objective assessment of need and its absence does not fundamentally undermine the soundness of the DMP.
15. Paragraph 21 of the NPPF provides that investment in business should not be over-burdened by the combined requirements of planning policy. There are nevertheless 3 dimensions of sustainable development which comprise the social and environmental roles of the planning system as well as an economic one. As explained later some elements of the relevant policies affecting business are not justified. However, the emphasis towards building a strong, competitive economy and, in particular, supporting a prosperous rural economy is suitably balanced with other considerations including the objectives of the Core Strategy and is sound. Indeed, the overall approach of the DMP is consistent with national policy.

Issue 2 - Are the individual policies clear, justified and consistent with national policy and will they be effective?

General Matters

16. The NPPF sets out various principles for plan-making in paragraphs 154 and 157. The PPG on *Local Plans* encourages them to be as focused, concise and accessible as possible. There are 72 policies in the DMP. There is some force in the argument that this is too many. Equally there should be sufficient detail and the Council prefers that policies are complete rather than requiring

extensive cross-referencing. The coverage and extent of the DMP is a matter for the Council and any repetition does not go to soundness.

17. Paragraph 158 of the NPPF refers to adequate, up-to-date and relevant evidence. The PPG on *Local Plans* at paragraph 014 also provides that appropriate and proportionate evidence is essential. However, in certain instances suitable evidence can be based on previous experience rather than always on established facts. Whether the information passes the relevant threshold is a matter of planning judgement and will depend on the nature of the issues involved. This is the approach I shall adopt throughout the report. Furthermore, the DMP should not merely recite the provisions of the NPPF. There is no need for this and to do so would remove any scope for local considerations to be incorporated provided they are justified.
18. There are a wide range of thresholds to which the policies should be applied. However, this is because they have been set at a level to take account of the particular impact of the relevant provision which is different for, say, bus accessibility and housing type and mix. In other places terminology is less prescriptive such as the proposed use of "large scale" in Policy DM19 and "key location" in Policy DM64. Whilst precision is desirable it is also necessary to enable decision-makers to exercise discretion based on the context which will vary both across North Somerset and from case-to-case. However, where the wording of the DMP is unclear or ineffective this will be addressed.

Living within Environmental Limits

19. The Written Ministerial Statement (WMS) entitled *Local Planning* on 18 June 2015 sets out new considerations to be applied to wind energy development. This must now be in areas identified as suitable for wind energy in a Local Plan as referred to in paragraph 97 of the NPPF. No such areas are shown in the DMP and so, to achieve soundness, the provisions of Policy DM2 (Renewable and Low Carbon Energy) should specifically exclude wind turbines (**MM3**). The NPPF refers to the move to a low carbon future. Therefore new development should address energy generation although this provision should be qualified so that the policy does not encompass "all" developments. Any statement submitted alongside a planning application would take account of current national standards and there is no requirement for anything to be provided over and above this.
20. Changes are also required to Policy DM1 (Flooding and Drainage) in the interests of effectiveness and to accord with national policy (**MM2**). The PPG on *Flood Risk and Coastal Change* confirms that when considering major development sustainable drainage systems should be provided unless demonstrated to be inappropriate².

Heritage Assets

21. No clear correlation between trunk diameter and the number of replacement trees required has been shown to justify Table 1 of Policy DM9 (Trees). Neither would it assist in ensuring that green infrastructure is considered at an

² ID: 7-079-20150415

early stage of the development process or that aftercare is effective. Therefore its inclusion is not justified (**MM10**). Indicating a general expectation of one for one replacement of both protected and non-protected trees would provide all concerned with a reasonable guide.

22. The test for new development in the Mendip Hills AONB should be more stringent than for development outside it and I have adjusted the proposed wording to ensure that the policies reflect this (**MM11**). Otherwise they would set suitable tests in relation to landscape for development both inside and outside the AONB. Paragraph 123 of the NPPF refers to protecting areas of tranquillity but it not necessary for these to be identified in Policy DM10 (Landscape) given that they are likely to be in remote areas with little development pressure. For effectiveness and to accord with paragraph 115 of the NPPF the overarching purpose of the AONB should be specified in Policy DM11 (Mendip Hills Area of Outstanding Natural Beauty) (**MM12**).
23. The Government attaches great importance to Green Belts. Openness is an essential characteristic. However, whilst consideration should be given to it in all cases openness is not a factor to be taken into account in determining whether the extension or replacement of a building is inappropriate development under paragraph 89 of the NPPF. To be clear Policy DM12 (Development Within the Green Belt) should also confirm that certain outbuildings are not to be categorised as inappropriate development (**MM13**).
24. The DMP continues the approach of the Replacement Local Plan in defining the original building as that which was on the site at 26 July 1985 to coincide with the adoption of the Avon County Structure Plan. Whilst this differs from Annex 2 of the NPPF it is justified as a pragmatic local response taking on board previous and existing policy and the practical difficulties of a 'base date' of 1948. The Council has also found that many changes of use have no adverse impact on the Green Belt and therefore treating these as not inappropriate development subject to certain caveats can be endorsed. The additional criteria in relation to partial or complete redevelopment do not add further tests to the categorisation of schemes as inappropriate or not. The NPPF does not use the term "appropriate development" in this context.
25. Not all developments should be expected to contribute to green infrastructure by Policy DM19 (Green Infrastructure) as this should be dependent on the size of the development and its location in relation to existing provision and the scope to improve networks (**MM17**). The wording of the entire policy does not imply that off-site enhancements are necessarily required.
26. Main modifications are necessary to the policies concerning conservation areas, listed buildings, historic parks and gardens, archaeology, non-designated heritage assets and nature conservation in order to conform with legislation, reflect the NPPF and PPG and for consistency, clarity and accuracy (**MM4, MM5, MM6, MM7, MM8 and MM9**). However, that proposed for Policy DM3 would impose a further, different test for conservation areas and the impact on their setting is covered by changes to the second bullet point. I have therefore adjusted the wording in the interests of soundness.

27. In order to be effective the policies relating to minerals should also be modified to reflect the large land bank for crushed rock (**MM14**) and the planning permission at The Spinney (**MM15**). The NPPF indicates that Minerals Safeguarding Areas should be defined to prevent needless sterilisation of important resources although this does not create a presumption that they will be worked. The principle of defining the land covered by the Coal Authority Surface Coal Resource data is sound. However, as there is no realistic opportunity to recover surface coal from land at Royal Portbury Dock given the on-going use and the existence of permitted development rights this reference should be removed from **MM16**.

Transport

28. The Government recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Nevertheless, similar principles apply to all development and the wording of Policies DM24 (Safety, Traffic and Provision of Infrastructure) and DM26 (Travel Plans) does not preclude such a distinction from being made. Travel plans are only required for development likely to generate significant amounts of movement to accord with the NPPF (**MM21**).
29. The NPPF seeks to promote sustainable transport. Average stopping frequencies per stop across the District are higher than the target bus service frequency contained in Policy DM27 (Bus Accessibility Criteria). However, there is no detail about how they relate to the main development areas identified in the Core Strategy. The intentions of service providers are also unknown. The expectation is that all development of over 10 dwellings or 1,000 sq m should be within a reasonable distance (400m) of a bus stop. These thresholds could have unintended consequences in terms of inhibiting future development so that the policy is not the most appropriate strategy.
30. To address this the level at which the provision takes effect should be raised. The proposed reference to 50 dwellings is consistent with the Council's Highways Development Design Guide and development creating 50 or more jobs would equate to a similar level of development³. As modified rural enterprises should not be penalised whilst schemes of lesser size could be considered against the broad NPPF principle of making the fullest possible use of public transport. Potential provision of new services should refer to viability and the willingness of service providers. The use of 400m as a maximum distance is a well-established one in public transport planning. However, some qualifications are required to avoid it becoming an absolute coupled with an acknowledgement of the use of 600m in rural locations as set out in the Guide. I therefore recommend these changes as main modifications (**MM22**).
31. The WMS of March 2015 (*Planning Update*) indicates that the Government is keen to ensure that there is adequate parking provision in new residential development. The Council's study found that inadequate parking provision at large estates led to problems. These comprised cars parked on the public highway creating an obstruction and nuisance for residents and adverse impacts to the overall quality of place and social wellbeing. In the light of this

³ ED/29

there is a clear and compelling justification for Policy DM28 (Parking Standards) to manage the local road network. Given that the standards are contained in a Supplementary Planning Document (SPD) meeting them should not be expressed as an imperative (**MM23**). Similar main modifications are also required to other policies (**MM29**, **MM30** and **MM32**). Reference to loading and unloading is necessary for safety and to avoid delay.

32. To safeguard the cycle track to run under the M5 and Royal Portbury Dock Road, Policy DM25 (Public Rights of Way, Pedestrian and Cycle Access) should be updated (**MM20**). Should this route not prove feasible then the principle of the link will have been established and it is not necessary for soundness for the DMP to identify an alternative although the Council wishes to safeguard one around the M5 bridge embankment. The actual provision of new routes would require the involvement of any affected land owners and so would not necessarily compromise port use or security.
33. The policies regarding railway lines, safety and car parks are not sound as they are not positively worded, do not properly reflect SPD or do not accord with the NPPF. The main modifications recommended would rectify these deficiencies (**MM18**, **MM19** and **MM24**).

Delivering Strong and Inclusive Communities

34. The Strategic Housing Market Assessment (SHMA) of 2009 addressed the tenure, size and type of housing required at district level across the West of England. A new SHMA for the wider Bristol housing market area was produced in June 2015 to inform Local Plan reviews across the region. Volume 2 was published in January 2016 but does not establish the need for all types of housing for individual local planning authority areas and further work is likely to be needed. Accordingly it is not possible for Policy DM34 (Housing Type and Mix) to be precise about what should constitute a mixed and balanced community. However, the proposed reference to the SHMA as the evidence base accords with national policy.
35. Without being definitive the policy nevertheless gives some guidance about certain types of accommodation that are favoured such as family housing at Weston villages and aspirational housing at Weston-super-Mare. This is in line with the findings of the SHMA of 2009 and live/work units in rural areas are not precluded. Subject to providing clarity about the role of self-build and custom built housing, specifying how imbalances should be addressed and referring to viability (**MM27**), the policy is sound.
36. Evidence has been gathered by Nailsea Town Council⁴ to show that there are a preponderance of older people and an oversupply of larger 4 and 5 bedroom houses in the town. Whether or not similar circumstances exist elsewhere the provisions of Policy DM35 (Nailsea Housing Type and Mix) address existing imbalances and is the most appropriate strategy for new housing there.
37. Restricting further conversions from single houses is justified in certain parts of Weston-super-Mare due to issues of proliferation, street parking, bin stores

⁴ ED/13 & ED/14

and social consequences. Following a careful sifting of potential areas⁵ Policy DM39 (Sub-division of Properties) has been appropriately targeted.

38. Policy DM33 (Inclusive Access into Non-residential Buildings and Spaces) is intended only relate to the public realm around larger scale and newly planned areas and a change to this effect is recommended (**MM26**). The policies on high quality design and place-making and extensions to dwellings should also be modified to give flexibility in approach and for clarity regarding domestic outbuildings (**MM25** and **MM31**).

Older and vulnerable people

39. The WMS of March 2015 introduced a new approach for the setting of technical standards for new housing. These include additional optional Building Regulations on access and a new national space standard. The new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need and where their impact on viability has been considered. Policy DM42 (Accessible and Adaptable Housing) does not take account of the WMS and is not sound.
40. The PPG on *Housing – Optional Technical Standards* indicates that the proportion of new accessible or adaptable and wheelchair user dwellings should be clearly stated⁶. However, the Council is unable to set a single quantum of provision due to variations across the District. Instead the appropriate proportions would be based on evidence of need, feasibility and viability. Given the ageing population of North Somerset this approach is sound provided that there is a commitment to an early review of the policy. This should therefore be 'written-in' at this stage with a view to establishing specific targets based on experience and the provisions of paragraph 009 of the PPG in due course. The PPG nevertheless indicates that policies for wheelchair accessible homes should only be applied to dwellings where the Council is responsible for allocating or nominating a person to live there⁷.
41. The cost of providing access to meet Part M(2) of the Building Regulations is less than complying with the Lifetime Homes Standard. Since 2013 this has been required by Policy CS2 of the Core Strategy for all developments of over 10 dwellings and therefore the impact on viability should not be punitive.
42. In order to deliver a wide choice of high quality homes the NPPF refers to the size of housing. It also establishes that there should be a good standard of amenity for future occupants of buildings. The nationally described space standards are similar to those in the SPD on *Affordable Housing* and since its adoption these have been required for affordable schemes. For market housing the Council's analysis⁸ indicates that on smaller sites viability would not be affected since the national standards are being exceeded. However, it also points to the potential value of the standards for the quality of life of occupiers of 2 bedroom properties on larger sites since average sizes are

⁵ ED/15

⁶ ID: 56-008-20150327

⁷ ID: 56-009-20150327

⁸ ED/16

below the lowest figure for 2-storey dwellings. Therefore the proposed main modifications are justified (**MM35**).

43. The policy on retirement accommodation should contain a reference to the SHMA for clarity (**MM33**). The approach to nursing and care homes should be more positive to allow for extensions (**MM34**). Changes are also required to the policy on residential annexes for effectiveness and to properly reflect the status of the parking standards (**MM36**)

Dwellings in the Countryside

44. The criteria in Policy DM45 (Conversion of Rural Buildings to Residential Use) relating to redundant buildings, traditional construction and attempts to secure an economic use reflect former Government policy that has been cancelled. As such, they are not consistent with current national policy and should be removed as there is insufficient local justification to support such a divergence. The seventh bullet point requires a "sustainable location". However, the NPPF also encourages the reuse of existing resources and, as such, the requirement for safe and convenient access to an appropriate range of services and facilities is not justified. The proposed modification to avoid isolated, remote locations or where access to them would be poor is nevertheless warranted to prevent an overly dispersed pattern of development. A further criterion is also necessary to ensure that any historical and architectural significance is conserved (**MM38**).
45. The expectation that 70% of the exterior walls should be standing provides a useful guide to the expected structural integrity of any building and is a local judgement for the Council to make.
46. Paragraph 55 of the NPPF indicates that new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Policy DM46 (Rural Workers Dwellings) is therefore justified in expecting, amongst other things, a functional need to be demonstrated and referring to financial soundness. However, requiring applicants to provide an "independent" appraisal should be removed (**MM39**) although the policy does not require any such report to be expensive. As the floor space limit of 150 sq m is greater than any of the figures in the nationally described space standard it would allow for additional facilities that might be required for a rural dwelling such as an office/study or a drying area for outdoor clothes.
47. To assist implementation the way that the assessment will be undertaken of the size of any dwelling to be replaced should be made clear (**MM37**).

Delivering a prosperous economy

48. The NPPF refers to the vital role of the development of high speed broadband in enhancing the provision of local services and facilities. Nevertheless, it is not realistic to expect developers to provide access to superfast broadband rather than the supporting infrastructure in the event that it becomes available. Notwithstanding recent research by the Federation of Small Businesses seeking speeds above 24Mbps for new development in Policy DM48

(Broadband) is justifiably ambitious and so consistent with national policy aims. However, whilst encouraging future proofing the policy contains flexibility in referring to other options and should not be applied to all new developments as the evidence is that providing the necessary ducting has only been an issue at business parks. Given that conditions would be imposed there is also no justification for requiring a separate connectivity statement and this reference should be removed (**MM41**).

49. To be effective clarity is required in relation to the policy for Bristol Airport (**MM42**) and greater flexibility allowed for economic development within towns and defined settlements in relation to travel (**MM40**).

Agriculture

50. According to the PPG on *Use of Planning Conditions*⁹ requiring the demolition of a permanent building by condition is unlikely to be reasonable. This guidance would have taken account of the provisions of the General Permitted Development Order which, in any event, relates to 'permitted development' rather than development granted planning permission. Consequently the final paragraph of Policy DM51 (Agriculture and Land-Based Rural Business Development) should be removed to achieve soundness (**MM43**). Overall the policy would promote the development and diversification of agricultural and other land-based rural businesses in line with the NPPF.

51. For clarity the preferred material for equestrian development should be specified (**MM44**).

Business in the countryside

52. Planning policies should support economic growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. To achieve this, paragraph 28 of the NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas both through conversion of existing buildings and well-designed new ones. However, in line with the "golden thread" running through plan-making and decision-taking the emphasis is on "sustainable" development rather than permitting all business development in the countryside.
53. To this end, the approach in Policy DM55 (Existing Businesses in the Countryside) and others to give priority to the re-use of existing buildings does not rule out new buildings. Rather it reflects the encouragement given to the conversion of existing buildings in the NPPF as well as implicitly acknowledging the intrinsic character and beauty of the countryside. As such, this provision is sound because it seeks to minimise rather than prevent new built form in rural areas. However, the reference to possible further expansion is advisory. As it does not provide a clear indication of how a decision maker should react to a proposal it should be removed (**MM47**).
54. There is no need for a business use to be near to a settlement as set out in Policy DM56 (Conversion and Reuse of Rural Buildings for Employment

⁹ ID 21a-014-20140306

Development) but it should not be remote from a potential workforce. A further criterion is necessary to ensure that any historical and architectural significance is conserved. Greater precision is required in relation to buildings constructed for agricultural purposes within the last 10 years (**MM48**).

55. The NPPF does not expect applicants to demonstrate a business case. On the contrary paragraph 28 supports the provision and expansion of tourist and visitor facilities in appropriate locations. Therefore this proviso within Policy DM57 (Conversion, Reuse and New Build for Visitor Accommodation in the Countryside) should be omitted. In addition, restricting its application to traditional buildings is not in line with Government policy.
56. Given the indication that holiday accommodation is plentiful in North Somerset there is insufficient justification to resist changes to residential use. Such proposals would nevertheless be controlled through the planning application process and considered against Policy DM45 which contains a locational provision. To avoid deterring investment a subsequent change to permanent residential use could be sanctioned within 10 years if the existing use is shown to be unviable (**MM49**).
57. Requiring a business case under Policy DM58 (Camping and Caravan Sites) is not justified as previously explained. The policy should also be clarified to confirm that sites are not automatically unacceptable in the AONB (**MM50**).
58. An extensive range of goods is sold at Cadbury Garden Centre. However, there is no justification for Policy DM59 (Garden Centres) to restrict non-garden related goods to 15% of net sales floorspace or to require any such products to have been made or grown within a 30 mile radius. Indeed, there is no evidence to indicate that increasing vacancy rates in the main town centres over the last 10 years can be attributed to the growth of garden centres as 'destinations' in their own right. The first bullet point should therefore be deleted and the justification altered to suit (**MM51**).
59. The definition of employment development on previously developed land in the countryside should be broadened to support economic growth and to accord with the NPPF (**MM46**). In order that the DMP as a whole is effective changes are also needed to ensure consistency with other policies in this section and with retail policy (**MM45**).

Retailing, town, district and local centres

60. As well as defining the extent of town centres and primary shopping areas, the NPPF refers to giving a clear definition of primary and secondary frontages and setting policies that make clear which uses will be permitted in such locations. There is therefore support in principle in national policy for Policy DM64 (Primary Shopping Frontages). Furthermore, this has been devised to give greater flexibility and freedom than previously by a broader acceptance of Class A uses generally and by 'shrinking' the extent of the frontage. Whilst the approach for Weston-super-Mare town centre is still evolving through the *Prospectus for Change*¹⁰ the broad vision is that re-generation will be

¹⁰ ED/23

residential led rather than retail led. Given this and the reduced length of the primary frontage the policy, in itself, would be unlikely to stymie the future fortunes of the centre.

61. However, to be effective greater detail should be provided about how the loss of retail floorspace will be assessed having regard to the size of the unit and its location and adding a provision to avoid inactive daytime uses. In addition, the proposed extension of the primary frontage to create better linkages to the seafront along Regent Street is not justified given the existing mix of uses and as this aspiration could be pursued by other means (**MM55**).
62. Policy DM66 (The Sequential Approach for Retail Development) does not apply the sequential test to retail proposals below 200 sq m. This equates to an average convenience store and is proportionate based on the Council's experience. Outside town centres the policy requires an impact assessment to be undertaken for any development of over 200 sq m. The national default in the NPPF is 2,500 sq m but paragraph 26 allows for a locally set threshold. However, none of the factors set out in paragraph 016 of the PPG on *Ensuring the Vitality of Town Centres* have been considered in setting the threshold in the DMP. As such, this element of the policy should be removed to achieve soundness and in the absence of any other evidence about the potential impact on smaller centres the national default should be adopted (**MM57**).
63. Having regard to the consequences for the town centres there is also no sound justification for an impact assessment for all proposals at the retail parks as required by Policy DM65 (Development at the Retail Parks) (**MM56**). Clarifying that the retail parks are allocated for large scale retail uses of over 500 sq m is nevertheless consistent with the Core Strategy. Furthermore, proposals will be required to demonstrate specific locational requirements and apply the sequential test in line with local and national policy. Policy DM65 does not allow for the area of the retail parks to be enlarged.
64. Although proposals would also be judged against Policies DM65 and DM66 the Council wishes to retain Policy DM67 (Retail Proposals Outside or Not Adjacent to Town, District or Local Centres). This is not in itself unsound but the wording should complement other policies in the DMP including those that allow for retail uses in the countryside (**MM58**). This exemption is in line with the NPPF which indicates that the sequential approach should not be applied to small scale rural development. Nevertheless, paragraph 37 aims for policies that encourage people to minimise journey lengths for shopping. A general limit on anything above 200 sq m is therefore justified.
65. Clarity is required about the approach to development in town centres generally and in district and local centres to correctly reflect the retail hierarchy in the Core Strategy (**MM52**, **MM53** and **MM54**).

Ensuring safe and healthy communities

66. Requiring the sharing of facilities to be investigated as expected by Policy DM69 (Location of Sporting, Cultural and Community Facilities) might lead to a more efficient use of land. However, this criterion would not be used as a reason for refusal and consequently does not accord with the principles in

paragraph 154 of the NPPF. To be consistent with national policy it should therefore be removed. The reference to the impact on town centres should also be in line with the retail policies (**MM60**). For completeness theatres should be mentioned as a cultural facility (**MM59**).

Delivery

67. The Council cannot compel adoption of development infrastructure and so these references contained in the policy relating to its delivery should be omitted. Other modifications are required both to this policy and the one regarding obligations in the interests of flexibility, clarity, viability and accuracy (**MM61** and **MM62**).

Other policies and matters

68. The PPG indicates that there is no need to reiterate policies that are already set out in the NPPF so Policy SP1 (Presumption in Favour of Sustainable Development) should be deleted (**MM1**). Corrections are needed to the list of superseded policies in Appendix A and to the Glossary (**MM63** and **MM64**).
69. The location of Portishead railway station has been confirmed and the Council is well aware of the local concerns about adequate parking which will be resolved by other means. Parking and the protection of the 'green' triangle are issues at West Hill in Portishead but the DMP contains no specific proposals in either respect.

Conclusion on Issue 2

70. Subject to the main modifications discussed above I am satisfied that the individual policies of the DMP clear, justified and consistent with national policy and that they will be effective.

Assessment of Legal Compliance

71. My examination of the compliance of the DMP with the legal requirements is summarised in the table below. I conclude that they are all met.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The LDS 2014-2017 ¹¹ refers to a Sites and Policies Plan. Whilst the DMP is proceeding separately it has been prepared in accordance with the LDS in that it contains development management policies. The separation of Parts 1 and 2 is reflected in the current LDS 2015-2018 approved in October 2015.

¹¹ SD/19

Statement of Community Involvement (SCI) and relevant regulations	The SCI ¹² was adopted in March 2015 and consultation has been compliant with it including that on the proposed main modifications.
Sustainability Appraisal (SA)	SA ¹³ has been carried out and is adequate. The Council has determined that the Main Modifications are unlikely to have significant environmental effects under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.
Habitats Regulations Assessment (HRA)	The Habitats Regulations Assessment Screening Report ¹⁴ predicted that no likely significant effects on European sites from the DMP both alone and in combination with other plans or projects. Natural England is satisfied that it meets the requirements of the Regulations ¹⁵ .
National Policy	The DMP complies with national policy except where indicated and modifications are recommended.
2004 Act (as amended) and 2012 Regulations.	The DMP complies with the Act and the Regulations.

Overall Conclusion and Recommendation

72. The DMP has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act.
73. The Council has nevertheless requested that I recommend main modifications to make the Plan sound and capable of adoption. I therefore conclude that with the recommended main modifications set out in the Appendix the North Somerset Sites and Policies Plan Part 1: Development Management Policies the satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

David Smith

INSPECTOR

This report is accompanied by the Appendix containing the Main Modifications

¹² SD/11

¹³ SD/04

¹⁴ SD/07

¹⁵ SD/08